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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,074	10/22/2003	Michael Perkins	020824-006210US	8285
20350	7590	08/18/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				YUAN, DAH WEI D
		ART UNIT		PAPER NUMBER
		1745		

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/692,074	PERKINS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Dah-Wei D. Yuan	1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 June 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-8,10-19,23 and 25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 19 is/are allowed.

6)  Claim(s) 1-8,10-18,23 and 25 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 03 December 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

**BATTERY PACK INCLUDING RECHARGEABLE BATTERIES**

Examiner: Yuan      S.N. 10/692,074      Art Unit: 1745      August 11, 2005

**Detailed Action**

1. The Applicant's amendment filed on June 27, 2005 was received. The title of the invention was changed. Claims 9,20-22 were cancelled. Claims 1,2,14,16,18,19 were amended. Claims 23-25 were added.
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action issued on February 25, 2005.

***Specification***

3. The amendment filed June 27, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: wherein the battery separator is insertable within the aperture; wherein the body encloses the first rechargeable battery and the second rechargeable battery and prevents removal of the first and second rechargeable batteries from the battery pack.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-8,10-18,23-25 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The instant specification does not provide support for the recitations "wherein the battery separator is insertable within the aperture" in claim 1 and are "wherein the body encloses the first rechargeable battery and the second rechargeable battery and prevents removal of the first and second rechargeable batteries from the battery pack" in claim 16. If applicant believes said terms are fully defined, it is requested that applicant indicates column and line, and/or figure with number, identifying the support for the recitations. For the interest of compact prosecution, claim 1 is examined as reciting "...wherein the battery separator is movable within the aperture". See instant disclosure, paragraph 58.

6. The claim rejections under 35 U.S.C. 112, second paragraph, on claims 2-4,18 are withdrawn, because the claims have been amended.

***Claim Rejections - 35 USC § 103***

7. Claims 1,5-8,10-15,23,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz (US 3,662,166) in view of Dalton (US 6,238,818 B1) and Naghi et al. (US 6,505,949 B2).

With respect to claims 1,15, Dietz teaches a battery-operated unit comprising a housing (1) including a first battery holding region and a second battery holding region (3) wherein the first and second battery holding regions are aligned along a same axis as shown in Figure 3 and

4. See Abstract.

However, Dietz does not teach the unit comprising a battery separator disposed between the first battery holding region and the second battery holding region. Dalton teaches an in-line cell cartridge which received dry cell in an in-line or end to end orientation. The cartridge comprises a body (4), dry cell cavities (62,64,66,68) and contact members (34) (separators). The cartridge is used to receive AA-sized dry cells including rechargeable batteries. Dalton teaches the invention includes features which prevent the incorrect orientation by preventing dry cell terminals making contact with the necessary components. Dalton et al. further teach the contact member can be riveted by means of a plastic rivet or attached by some other appropriated means to one side of the wall part (28), i.e., the contact members (separator) are movable. See Figure 1, abstract, Column 9, Lines 20-39. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the cartridge of Dalton onto the battery-operated unit of Dietz, because Dalton teaches the use of such cartridge to prevent the incorrect orientation of the battery inside the unit.

The combination of Dietz and Dalton disclose a battery-operated illuminating device as described above. However, Dietz and Dalton not disclose that device comprising an input device, a processor coupled to the input device and an audio output device. Naghi et al. teach a portable handheld video game device having an illumination apparatus for illuminating an object associated with the device. See Abstract. The gaming device has a processor and an audio output device. Therefore, it would have been obvious to one of ordinary skill in the art to use battery-operated illuminating device of Dietz and Dalton on the video game device of Naghi, because the illuminating device can be used to illuminating an object on the viewing screen of the portable handheld video game device.

With respect to claim 5, the battery holding regions of Dietz are cooperatively configured to received the portion of the cartridge of Dalton. See Figures 3 and 4.

With respect to claim 6, Dalton teaches the contact member (34) can be riveted by means of a plastic rivet to one side of the wall part. Thus, the contact member can be removed vertically with respect to the orientation of the batteries. See Column 9, Lines 28-40.

With respect to claim 7,8, Dietz teaches the unit comprising a bulb (8), which can be used as a gaming device or a book reading device. See Column 3, Lines 64-70.

With respect to claim 10, Dalton teaches the cartridge comprising a biasing element (46, a generally planar and semi-circular construction). See Figures 8.

With respect to claims 11,12, Dietz teach the unit comprising third battery and a fourth battery holding region as shown in Figures 3 and 4. It would have been obvious to one of ordinary skill in the art to incorporate a second cartridge of Dalton onto the battery-operated unit

of Dietz, because Dalton teaches the use of such cartridge to prevent the incorrect orientation of the battery inside the unit.

With respect to claims 13,14, Dalton teaches the contact members remain in a substantially fixed position. See Figure 1.

With respect to claim 23, Naghi et al. teach the used of a viewing screen (2), which is coupled to the processor. See Figure 1.

With respect to claim 25, Dalton teaches the aperture is in the form of slit. See Figure 1.

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz (US 3,662,166), Dalton (US 6,238,818 B1) and Naghi et al. (US 6,505,949 B2) as applied to claims 1,5-8,10-15,23,25 above and further in view of Martin (US 2003/0048599 A1).

The combination of Dietz, Dalton and Naghi disclose a portable electrical apparatus as described in Paragraph 7 above. However, these references do not teach or suggest the use of a stylus to select images o the display screen. Martin teaches a small computing device having a light source, wherein a stylus (112) is used to make selections and enter information into the device. See Paragraph 15. Therefore, it would have been obvious to one of ordinary skill in the art to add a stylus onto the electronic apparatus of Dietz, Dalton and Naghi, because Martin teaches the use of a stylus to make selection and enter information into the device.

***Allowable Subject Matter***

9. Claim 19 is allowed. The following is a statement of reasons for the indication of allowable subject matter: The invention of independent claim 22 recites a battery pack comprising a linear portion, a first rechargeable battery, a second rechargeable battery and an aperture in the linear portion in between the first rechargeable battery and the second rechargeable battery, wherein the linear porting is a first linear portion aligned along a first axis, wherein the battery includes a second linear portion aligned along a second axis, wherein the first and second axes diverge. The term "diverge" is understood as "to move, lie, or lie or extend in different directions from a common point. The Dietz reference only teaches the batteries are disposed along two parallel axis.

***Response to Arguments***

10. Applicant's arguments filed on June 27, 2005 have been fully considered but they are not persuasive.

*Applicant's principle arguments are*

*Prior arts do not teach the body encloses the first rechargeable battery and the second rechargeable battery and prevents removal of the first and second rechargeable batteries from the battery pack as recited in claim 16.*

In response to Applicant's arguments, please consider the following comments.

There is not support for the recitation in the instant disclosure. Instead, the specification teaches the body (18) could be an open holder that holds two batteries together in an in-line orientation. See Paragraph 34.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

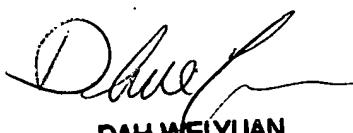
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei D. Yuan whose telephone number is (571) 272-1295. The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dah-Wei D. Yuan  
August 11, 2005



DAH-WEI YUAN  
PRIMARY EXAMINER